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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,225	05/02/2001	David S. Gress	95-460	7396
23164	7590	11/30/2005	EXAMINER	
LEON R TURKEVICH				RAMOS FELICIANO, ELISEO
2000 M STREET NW				ART UNIT
7TH FLOOR				PAPER NUMBER
WASHINGTON, DC 200363307				2687

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/846,225	GRESS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eliseo Ramos-Feliciano	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,7,8,12,14,16,20-24,26,27,31-35,37,38 and 42 is/are rejected.
- 7) Claim(s) 6,9-11,13,15,17-19,25,28-30,36 and 39-41 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 3-5, 7-8, 12, 14, 16, 20, 22-24, 26-27, 31, 33-35, 37-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwelb et al. (US Patent Number 5,950,123), in view of Jones (US Patent Number 5,832,221) and further in view of Luther (US Patent Number 5,640,590).

Regarding **claims 1, 12, 20, and 31**, Schwelb et al., discloses a method in a server configured for executing messaging operations, the method comprising: receiving a short message service (SMS) that specifies text-based message, a messaging destination, and outputting the audible message for delivery to the messaging destination (column 6, lines 9-20). Schwelb does not disclose receiving a short message service (SMS) message that specifies a text-to speech messaging command. However, Jones teaches receiving a message that specifies a text-to speech messaging command (column 8, lines 51-59). Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art, to modify Schwelb with the above teachings of Jones, so the sender has the option to tell server to convert to voice when sender knows the preferred format (as suggested by Jones, column 8, 51-55). Schwelb does not disclose detecting the text to speech messaging command during parsing of the SMS message; invoking a text-to speech resource for conversion of the text-based message into an audible

message in response to detecting the text-speech messaging command. However, Luther discloses detecting the text to speech messaging command during parsing of the message; invoking a text-to speech resource for conversion of the text-based message into an audible message in response to detecting the text-speech messaging command (column 4, lines 24-30, and lines 51-54, see also blocks 302 and figure 3 and S318 in figure 3b). Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art, to modify Schwelb with the above teachings of Luther, in order to avoid desynchronization as suggested by Luther (column 4, lines 24-30).

Regarding **claims 3, 22, and 33**, the combination of Schwelb, Jones, and Luther further discloses the detecting step includes detecting the text-to-speech messaging command as prescribed character within the SMS message (Luther - column 3, lines 43-53, and column 4, lines 23-29).

Regarding **claims 4, 23, and 34**, the combination of Schwelb, Jones, and Luther further discloses the detecting step further includes detecting the text-to-speech messaging command (Luther - column 4, lines 24-30) except for the text-to-speech command being adjacent to the messaging destination. Since applicant has not disclosed that this limitation solves any stated problem or is for any particular purpose, it would have been obvious to a person of ordinary skill in the art, to place the command next to the message destination, in order to allow the server to easily detect the text-to-speech command.

Regarding **claims 5, 14, 24, and 35**, the combination of Schwelb, Jones, and Luther further discloses the invoking step includes issuing a procedure call to the text-to-speech

resource, the text to speech resource executable within the server (Jones element 750 in figure 1, also see column 9, lines 54-61, and Luther- column 4, lines 23-30).

Regarding **claims 7, 26, and 37**, the combination of Schwelb, Jones, and Luther further discloses the outputting step includes outputting a notification message, including the audible message and specifying the message destination, to a notification resource configured for notifying the messaging destination with the audible message (Jones - column 8, lines 39-61).

Regarding **claims 8, 27, and 38**, the combination of Schwelb, Jones, and Luther further discloses the outputting step further includes generating the notification message including the audible message, the messaging destination, and a prescribed command specifying immediate notification the messaging destination (Jones - column 9, lines 42-53).

Regarding **claim 16**, see the rejection of *claims 7 and 8* as discussed above.

3. **Claims 2, 21, 32, and 42** are rejected under 35 U.S.C. 103(a) as being unpatentable over by Schwelb et al., Jones, and Luther, as applied above, and further in view of Ladd (US Patent Application Publication Number US-2003/0078989-A1).

Regarding **claims 2, 21, 32, and 42**, the combination of Schwelb et al., Jones, and Luther discloses everything claimed as applied above (see rejection of *claims 1, 12, 20, and 31*). However, they fail to specifically disclose determining that the SMS message includes a destination number that corresponds to an SMS command processor within the server. Ladd discloses SMS messages (par. 0022). In a server, the message is processed by a text-to-speech processor (par. 0035). The message must contain text-to-speech processor's 56 address (claimed "destination number") in order to be properly routed from 12 to 56 and processed at 56 (Figure 4). Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in

the art to modify the combination of Schwelb et al., Jones, and Luther with the above teaching of Ladd, so that the SMS message includes a destination number that corresponds to an SMS command processor within the server, in order to be properly routed and processed.

*Allowable Subject Matter*

4. **Claims 6, 9-11, 13, 15, 17-19, 25, 28-30, 36, and 39-41** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

5. Applicant's arguments filed September 16, 2004 and the evidence concurrently submitted against Spielman et al. (USPN 6,665,378) with respect to claims 6, 9-11, 13, 15, 17-19, 25, 28-30, 36 and 39-41 are persuasive.

6. Applicant's arguments with respect to claims 1-5, 7-8, 12, 14, 16, 20-24, 26-27, 31-35, 37-38 and 42 filed September 16, 2004 have been fully considered but they are not persuasive.

7. Applicant argues via incorporation by reference the arguments presented April 2, 2004 and September 16, 2004 (see page 1, third full paragraph of the present response).

In response these arguments have been treated in previous Office actions (mailed June 16, 2004 and June 16, 2005). Repeated arguments are referred to previous Office actions responses which are incorporated herein by reference.

*Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2687

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication from the examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is 571-272-7925. The examiner can normally be reached from 8:00 a.m. to 5:30 p.m. on 5-4/9 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid, can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ELISEO RAMOS-FELICIANO  
PATENT EXAMINER  
11/25/05

ERF/erf

November 25, 2005